

Response Under 37 CFR 1.116

Expedited Procedure

Application No. 10/720,646

Paper Dated: November 1, 2006

In Reply to USPTO Correspondence of September 1, 2006

Attorney Docket No. 0115-032131

REMARKS

Claims 11, 13-16, 21 and 22 remain in this application. Claims 11 and 21 have been amended, claim 12 has been cancelled with its limitation added to claim 11, and the remaining claims are unchanged.

In Section No. 2 of the Office Action, the Examiner rejects claims 12 and 21 under 35 U.S.C. §103(a) as being obvious from the teaching of United States Patent No. 3,801,421 to Allen, et al. (hereinafter the "Allen patent") in view of the teaching of United States Patent No. 6,021,646 to Burley, et al. (hereinafter the "Burley patent") and further in view of the teaching of United States Patent No. 4,897,302 to Bull (hereinafter the "Bull patent").

The Examiner indicates that the Allen patent discloses all of the features of the present invention with the exception of the step of applying depressions using an uneven pressure embossing. The Examiner indicates that the Burley patent teaches that the top surface may be provided with a textured finish using a heated roller or texture wheel embossing means. However, neither of these patents discuss particle size and the Examiner believes that the Bull patent does teach particle sizes, thereby making dependent claims 12 and 21 obvious in view of the combined teaching of these three references.

The Applicant respectfully disagrees.

Claim 11 has been amended to include the limitation of claim 12 specifying the granules have a mean particle size in a range from approximately 0.1 mm to 3.0 mm.

The Bull patent discloses in column 3, lines 49-51, particles having a diameter of 0.5 mm to 8.0 mm, but preferably 0.5 mm to 5.0 mm. Scrap granules for sporting surfaces disclosed in accordance with the Bull patent are made with a mixture of particles with different sizes. The range of 0.5 mm to 5.0 mm therefore means that a mixture of particles is used wherein the smallest particles have a diameter of 0.5 mm and the largest

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particles have a diameter of 5.0 mm. The particles are sorted with a mesh and the limits of this range are precise. From Fig. 1 of the Bull patent, it is evident that a mixture of particles with different diameters is used. In particular, Fig. 1 shows a layer of a porous polyurethane/particulate rubber matrix 1. As clearly shown, the particles have different diameters. Therefore, the matrix disclosed within the Bull patent contains particles with diameters larger than 3.0 mm and, in any case, particles with a diameter of 5.0 mm. The Bull patent clearly does not teach or suggest the use of particles with an average diameter in the range of approximately 0.1 mm to 3.0 mm. The texture of the surface is made with layers and a sealant. The surface is substantially sealed and, therefore, the covering is not porous and the water can not flow downward from the upper side as claimed in claim 11.

Furthermore, in accordance with column 5, lines 4-11 of the Allen patent, the particles will have sizes such that substantially all of the particles pass through a screen with a $\frac{1}{2}$ " or $\frac{1}{4}$ " opening and are retained on a U.S. Sieve No. 30 and No. 40 screen. The surfacing therefore contains particles with a diameter larger than 5.0 mm. This is reasonable because the larger the particles, the greater the permeability of the composite.

However, the method as specified in claim 11 of the present application uses granules having a mean particle size in a range of approximately 0.1 mm to 3.0 mm. The surfacing therefore contains particles with diameters not larger than 3.0 mm. The average particle size is therefore substantially smaller here than in the case of the granular covering disclosed by either the Allen patent or the Bull patent. As a favorable result, the granules are particularly firmly embedded on the upper side and can not become detached from the composite when subjected to load.

In the Office Action, the Examiner combines the teaching of the Allen patent and that of the Burley patent. The Applicant respectfully disagrees with such a combination. The Allen patent clearly does not disclose applying depressions using an uneven pressure embossing step. The surface disclosed by the Allen patent has an upper side which is rough and, as a result, does not need to be treated to have a sandpaper or pebble effect. This is

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contrary to the Applicant's invention as found in claim 11. The small particle size of the granules used in the Applicant's invention require that the surface be treated to impart to it depressions upon the surface. The Burley patent, on the other hand, discloses a floor system made from elements made from polyethylene or polypropylene. The floor, in accordance with the Burley patent, is intended for use for in-line skates or skating and, therefore, must be hard. The Burley patent applies a textured finish 59 to the extruded floor element after the extrusion has cooled. The textured finish gives a sandpaper or pebble effect which enables wheels from in-line skates to obtain better traction.

The granular covering, according to the present application as found in claim 11, is made of rubber-elastic granules and is, therefore, not at all hard and can not be used for in-line skates or skating. The Applicant therefore believes that the Allen patent and the Burley patent deal with different subjects and it is not appropriate to combine the teaching of the two.

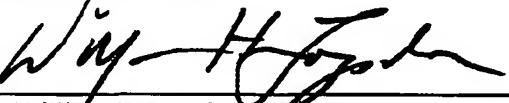
For these reasons, the Applicant believes that claim 11, as amended, is patentably distinct over the prior art of record. Additionally, by their dependence upon what is believed to be patentably distinct independent claim 11, dependent claims 13-16, 21 and 22 are themselves believed to be patentably distinct over the prior art of record.

Therefore, reconsideration and allowance of pending claims 11, 13-16, 21 and 22 are respectfully requested.

Respectfully submitted,

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